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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHN STEWART,

Defendant and Appellant.

D053463

(Super. Ct. No. SCD209754)

APPEAL from a judgment of the Superior Court of San Diego County, John M. Thompson, Judge. Affirmed.

A jury convicted John Stewart of robbery (Pen. Code,¹ § 211) and burglary (§ 459). In a separate proceeding, Stewart admitted that he previously served a prison term within the meaning of section 667.5, subdivision (b). The trial court sentenced Stewart to four years in prison—the middle term of three years on the robbery count and a one-year enhancement for the prior prison term. The court also sentenced Stewart to

¹ Statutory references are to the Penal Code.

the middle term of two years on the burglary count, but stayed the sentence pursuant to section 654.

FACTS

On the evening of October 16, 2007, Stewart entered the Na Hoku jewelry store in the Fashion Valley Mall in San Diego and asked manager Kristen Garfield if the store carried diamonds worth \$40,000 or \$50,000. After Garfield replied that the store did not carry jewelry in that price range, Stewart said: "Just show me your diamonds." Stewart requested the price of a specific ring; Garfield replied the price was \$3,000. When Stewart asked Garfield to remove the ring from the display case, Garfield refused his request. Stewart, who was wearing dark pants and a hooded sweatshirt, left the store.

After asking the assistant manager to telephone mall security, Garfield observed Stewart walking toward the store. As he reentered the store, Stewart had a flimsy black cloth over his face. One of Stewart's hands was covered by his sleeve and he pointed it toward Garfield, who assumed the covered hand held a weapon. Garfield and the assistant manager ducked behind the counter when Stewart entered the store. Stewart told Garfield to stand up and give him cash. After Garfield said cash was not kept at the store, Stewart pointed to a pearl display case and said: "Give me everything in this case." Garfield grabbed trays of jewelry and threw them into Stewart's black duffel bag. Stewart pointed to a diamond case and said: "Give me the good shit." Garfield put diamond jewelry into Stewart's duffel bag.

As Stewart ran out of the store, he almost ran into a man and his wife who were walking by the store. The man asked Garfield if she had been robbed and received an

affirmative response. Both the man and Garfield called 911. The man also ran after Stewart. Police found Stewart near a condominium complex with the jewelry in a black duffel bag.

The value of the stolen jewelry was \$31,000. All of it was recovered.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible, but not arguable, issues: (1) whether sufficient evidence supported Stewart's convictions for robbery and burglary; (2) whether the trial court abused its discretion by finding Stewart was competent to stand trial; and (3) whether the record established that Stewart's admission to the prior prison term allegation was knowing and voluntary.

We granted Stewart permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Competent counsel has represented Stewart on this appeal.

DISPOSITION

The judgment is affirmed.

McCONNELL, P. J.

WE CONCUR:

HALLER, J.

IRION, J.